

CONNECTICUT LEGAL RIGHTS PROJECT, INC.

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JUDICIARY COMMITTEE

Testimony of Thomas Behrendt

OPPOSITION TO SENATE BILL NO. 452

An Act Concerning the Care and Treatment of Persons with Psychiatric Disabilities

March 29, 2012

Senator Coleman, Representative Fox, and members of the Committee:

I am Thomas Behrendt, Counsel Emeritus with the Connecticut Legal Rights Project (CLRP), a legal services organization that advocates for low-income adults who have, or are perceived to have, psychiatric disabilities. I am here to voice my opposition to SB 452.

Involuntary Outpatient Commitment (“IOC”), as set forth in Section 5 of the bill, violates fundamental rights of a broad group of people who are not currently a danger to themselves or others, and have not been found incompetent to make their own medical decisions by forcing court ordered medical treatment. The bill has no requirement that the court make a finding that the individual is dangerous or lacks decision-making capacity. A conservator would be authorized to seek assistance of police or an ambulance service to have the individual restrained and medicated involuntarily. Persons diagnosed with psychiatric disabilities are singled out for this loss of rights.

IOC is inconsistent with Connecticut’s mental health system and DMHAS’s recovery-oriented system of care. SB 452 is antithetical to our “recovery core values” and would divert resources and attention from community-based mental health approaches with proven track records – such as peer support, proactive outreach and engagement, subsidized and supportive housing programs, advance directives, and counseling. It would damage good will and drive a wedge between treatment providers and the clients that they serve. It would turn clinicians into enforcers.

Fiscal Impact – Outpatient commitment is costly. New York State’s Office of Mental Health budgets \$32 million annually for its IOC program¹; The state’s actual expenditures are substantially higher than that amount.²

¹ Kendra's Law: Final Report on the Status of Assisted Outpatient Treatment Resources to Provide Court-Ordered Services. (“more than \$32 million for operation of services in support of Kendra's Law”) http://www.omh.ny.gov/omhweb/kendra_web/finalreport/resources.htm.

² E.g., the \$32 million figure does not include court staff and their time, and it excludes costs of providing mandated legal representation at state expense via the state’s Mental Hygiene Legal

Racial Disparities: African Americans and Latinos are over-represented as subjects of IOC orders in New York State, where an IOC law, known as “Kendra’s Law,” has been in place for just over a

decade. New York’s law is widely regarded as the model for outpatient commitment in the USA. African American clients are nearly five times as likely as whites, and Latinos twice as likely as whites, to be the subject of court-ordered treatment, based on data reported in 2005 and 2009.³ Implementing IOC in Connecticut would invite a comparably discriminatory application of court-ordered treatment. Connecticut commitments take place exclusively in probate court, in closed proceedings with no oversight and little ability to track impact.

IOC’s use of coercion risks driving people away from treatment⁴ and re-traumatizing clients who already have a high prevalence of trauma.⁵ Outpatient commitment can cause harm and result in dangerous situations by pushing people away from mental health treatment they would otherwise seek.

How Senate Bill 452 would work:

- SB 452 would change current law, creating a system that allows for forced treatment orders for a broad class of people: anyone treated by a mental health facility. “Facility” is broadly defined to include virtually any mental health program in the state: “any inpatient or outpatient hospital, clinic, skilled nursing facility or other facility for the diagnosis, observation or treatment of persons with psychiatric disabilities.”

By contrast, under existing law [Conn. Gen. Stat. § 17a-543(e) and (f)], the availability of court-ordered authorization for forced medication is limited to inpatients in psychiatric hospitals. Orders are valid for up to “120 days of continuous hospitalization,” and applications for court authorized involuntary medication must be made by “the head of the hospital.”

- There is no requirement in SB 452 that the court make a finding that the individual is dangerous or lacks decision-making capacity.
- Under the proposed law, conservators would be authorized to seek assistance of police or an ambulance service to have the individual restrained and medicated involuntarily with powerful, mind-altering drugs.

Service.

³ See, M. Cooper, “Racial Disproportion Seen in Applying ‘Kendra’s Law’,” New York Times, April 7, 2005; New York Lawyers for the Public Interest, 2009.

⁴ The Well-Being Project: Mental Health Clients Speak for Themselves, Campbell, Jean; Schraiber, Ron; California Network of Mental Health Clients, California Department of Mental Health, 1989. (IOC’s use of coercion risks driving people away from treatment altogether.)

⁵ Mueser, K.T., Salyers, M.P., Rosenberg, S.D., Goodman, L.A., Essock, S.M., Osher, F.C., et al. (2004). Interpersonal trauma and posttraumatic stress disorder in patients with severe mental illness: Demographic, clinical, and health correlates. *Schizophrenia Bulletin*, 30, 45-57.

- If SB 452 were to be enacted, competent individuals living in the community would be stripped of their right of informed consent. They would lose the right to make their own decisions -- whether to take powerful, mind-altering drugs -- in consultation with their physicians. This amounts to blatant discrimination: only people diagnosed with psychiatric disabilities would be singled out in this manner.

Outpatient commitment would change the nature of community mental health in Connecticut to a criminal justice model, demonizing people with mental disabilities and violating their civil rights. Rather than prevent violence, it can cause harm and result in violence because it scares people in distress away from help and treatment.

I urge you vote against SB 452.

Thank you for your attention to this matter and for the opportunity to testify.

